

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 799

Introduced by Baker, 44; Kremer, 34; Wehrbein, 2

Read first time January 4, 2006

Committee: Judiciary

A BILL

1 FOR AN ACT relating to eminent domain; to amend section 76-701,
2 Reissue Revised Statutes of Nebraska; to provide
3 restrictions on the use of eminent domain; to harmonize
4 provisions; and to repeal the original section.
5 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 76-701, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 76-701 ~~As used in sections 76-701 to 76-724, unless~~
4 ~~the context otherwise requires~~ For purposes of sections 76-701 to
5 76-726 and section 2 of this act:

6 (1) Condemner means any legal entity that by law has been
7 granted the right to exercise the power of eminent domain, and
8 includes the state and any governmental or political subdivision
9 thereof;

10 (2) Condemnee means any person, partnership, limited
11 liability company, corporation, or association owning or having
12 an encumbrance on any interest in property that is sought to be
13 acquired by a condemner or in possession of or occupying any such
14 property;

15 (3) Property means any such interest in real or personal
16 property as the condemner is empowered by law to acquire for public
17 use; and

18 (4) County judge means the county judge of the county
19 where condemnation proceedings provided by such sections ~~76-701 to~~
20 ~~76-724~~ are had.

21 Sec. 2. (1) A condemner may not take property through
22 the use of eminent domain under sections 76-704 to 76-724 if the
23 taking:

24 (a) Confers a private benefit on a particular private
25 party through the use of the property;

1 (b) Is for an alleged public use that is actually a
2 pretext to confer a private benefit on a particular private party;
3 or

4 (c) Is for an economic development purpose unless the
5 economic development purpose is a secondary purpose resulting
6 from municipal community development or municipal urban renewal
7 activities to eliminate an existing affirmative harm on the public
8 from slums or blighted areas under the Community Development Law.

9 (2) A condemner may not use eminent domain for an
10 economic development purpose when it involves the taking of
11 agricultural land.

12 (3) This section does not affect the use of eminent
13 domain for:

14 (a) Transportation projects, including, but not limited
15 to, railroads, airports, or public roads or highways;

16 (b) Water supply, wastewater, flood control, and drainage
17 projects;

18 (c) Public buildings, hospitals, and parks;

19 (d) Provision of utility services;

20 (e) Waste disposal projects;

21 (f) Libraries, museums, or related facilities, and any
22 infrastructure related to such facilities; or

23 (g) Condemnation of leaseholds on property owned by the
24 condemner.

25 Sec. 3. Original section 76-701, Reissue Revised Statutes

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1 of Nebraska, is repealed.